

# **EXHIBIT 5**

World Avenue U.S.A., LLC  
6001 Broken Sound Parkway, Ste. 200  
Boca Raton, FL 33487

Jeff Richard  
Compliance Manager

June 20, 2007

Clerk  
Superior Court of California  
County of San Francisco  
Small Claims Division  
400 McAllister Street, Room 103  
San Francisco, CA 94102  
Palo Alto, CA 94306

Re: Daniel L. Balsam v. World Avenue U.S.A., LLC  
Case Number 821162

World Avenue U.S.A., LLC ("Defendant") believes that Mr. Balsam ("Plaintiff") brought the above referenced cases in the wrong court for the following reasons:

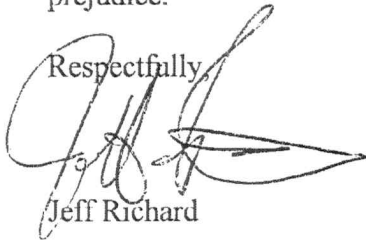
1. The Service on Defendant was not in accord with the mandatory language of SC-104 Proof of Service, for serving a business. Service was given to Mr. Tony Provenzano, an employee of Defendant attending a trade show in San Francisco. Mr. Provenzano is not an owner, partner, general partner, officer or general manager of Defendant, nor is he authorized for service by the Defendant nor with the Secretary of State.
2. Plaintiff has alleged no damage to property or injury of the kind or in the area that would be compensable by the Court.
3. Plaintiff answered "Yes" to section 9 of SC – 100, that he has filed more than 12 other small claims within the last 12 months in California, in apparent contradiction to the statement in section 10 in which he affirms that he understands that by filing a claim in small claims court he cannot file, *and has not filed, more than two* small claims cases for more than \$2,500 in California this calendar year.
4. In section 4 Plaintiff maintains that he asked Defendant in writing to pay Defendant before he sued. Defendant received two letters from Plaintiff dated October 31, 2005, and November 1, 2005, Attachments A & B. Defendant responded to Plaintiff's letters on December 1, 2005, Attachment C, and requested information needed to investigate Plaintiff's contentions. Plaintiff never responded to Defendant's request. Accordingly, Plaintiff's complaint is barred by Laches, and by the one

year period for commencing an action by section 340.(a) of the CA Code of Civil Procedure.

5. Attachments A, B and C make clear that Plaintiff has intentionally refused to provide basic information about his claims when requested, e.g., email addresses at which he professes to have received "spam" messages from Defendant. Plaintiff's persistent refusal, which continues to this day, amounts to a calculated effort to avoid giving actual notice of his complaint as prescribed by law.
6. Plaintiff's allegations about sending unsolicited email are preempted by the Federal CAN-SPAM Act.

For the above reasons Defendant requests the referenced case to be dismissed with prejudice.

Respectfully,

A handwritten signature in black ink, appearing to read 'Jeff Richard', with a long, sweeping horizontal stroke extending to the right.

Jeff Richard